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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,456	03/29/2004	Anthony J. Governo	15358US01	4680
23446 7590 02/22/2007 MCANDREWS HELD & MALLOY, LTD 500 WEST MADISON STREET SUITE 3400 CHICAGO, IL 60661			EXAMINER ELEY, TIMOTHY V	
			ART UNIT	PAPER NUMBER
			3724	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		02/22/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/813,456

Applicant(s)

GOVERNO

Examiner

Timothy V. Eley

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 and 25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 7/2/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

Art Unit: 3724

**DETAILED ACTION**

***Election/Restrictions***

1. This application contains claims directed to the following patentably distinct species:

- Species I: an apparatus for cutting and deflecting dust from a cutting element(claims 1-23, and 25).
- Species II: an apparatus for exhausting fluid from a cutting device(claim 24).
- The species are independent or distinct because they are separately patentable.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims appear to be generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election,

Art Unit: 3724

applicant must indicate which are readable upon the elected species.

MPEP § 809.02(a).

2. During a telephone conversation with Mr. John Rushman on February 05, 2006 a provisional election was made with the right traverse to prosecute the invention of Species I, claims 1-23, and 25.

Affirmation of this election must be made by applicant in replying to this Office action. Claim 25 is withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

#### ***Claim Objections***

3. Claims 4, and 7 are objected to because "furthering" should be --further--. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 19 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- "said tubes"(line 3) lacks proper antecedent basis since it was not properly earlier referred to. Applicant did not specifically

Art Unit: 3724

recite that there was more than one tube. At least one does not mean more than one.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-5,9,11-14, and 16-23 rejected under 35 U.S.C. 102(b) as being anticipated by Governo et al (D451,109).

- Governo et al discloses an apparatus comprising; a table, a blade support structure, the support structure having a cutting arm pivotable about the support structure and capable of being moved in an arcuate cutting motion; and a rotatable blade mounted on the cutting arm. See figures 1 and 2.
- Regarding claims 2 and 3, note the motor is parallel to the table.
- Regarding claims 4 and 5, note guard member acts as a dust deflector.

Art Unit: 3724

- Regarding claim 9, tolerance control is provided to the blade.
- Regarding claims 11 and 12, the cutting arm is elliptically arc shaped.
- Regarding claim 13, the cutting arms pivots to allow the blade to cut from a top of an article down through an entire bottom of the article.
- Regarding claim 14, note cavity.
- Regarding claim 16-19, note two angled elements connected by first and second cylindrical/tube-shaped rods, on one of which the cutting arm pivots.
- Regarding claim 20, perpendicularity of the blade to the table is maintained.
- Regarding claim 21, the blade has a cutting surface with segments, at least one of the segments terminating with a cooling hole.
- Regarding claim 22, the blade support structure projects upwardly from the table.
- Regarding claim 23, note leverage arm.

8. Claims 1-6,8-13,15,20,22, and 23 are rejected under 35

U.S.C. 102(b) as being anticipated by Brazell(6,478,664).

- Brazell discloses an apparatus comprising; a table, a blade support structure, the support structure having a cutting arm pivotable about the support structure and capable of being moved

Art Unit: 3724

in an arcuate cutting motion; and a rotatable blade mounted on the cutting arm. See figures 1 and 2.

- Regarding claims 2 and 3, note the motor is parallel to the table.
- Regarding claims 4-6, note guard member acts as a dust deflector and provides at least 181 degrees of coverage of the rotatable blade.
- Regarding claim 8, the table is defined by a plurality of openings.
- Regarding claim 9, tolerance control is provided to the blade.
- Regarding claim 10, note the torsion spring.
- Regarding claims 11 and 12, the cutting arm is elliptically arc shaped.
- Regarding claim 13, the cutting arms pivots to allow the blade to cut from a top of an article down through an entire bottom of the article.
- Regarding claim 15, note the removable backstop.
- Regarding claim 20, perpendicularity of the blade to the table is maintained.
- Regarding claim 22, the blade support structure projects upwardly from the table.
- Regarding claim 23, note leverage arm.

9. Claims 1,2,4-9,13,20, and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Liao(7,082,867).

Art Unit: 3724

- Liao discloses an apparatus comprising; a table, a blade support structure, the support structure having a cutting arm pivotable about the support structure and capable of being moved in an arcuate cutting motion; and a rotatable blade mounted on the cutting arm. See figures 2-4.
  - Regarding claims 2 and 3, note the motor is inherently parallel to the table.
  - Regarding claims 4-6, note guard member acts as a dust deflector and provides at least 181 degrees of coverage of the rotatable blade.
  - Regarding claim 7, note exhaust fitting which may be used with an exhaust pump(not positively recited by applicant).
  - Regarding claim 8, the table is defined by a plurality of openings.
  - Regarding claim 9, tolerance control is provided to the blade.
  - Regarding claim 13, the cutting arms pivots to allow the blade to cut from a top of an article down through an entire bottom of the article:
  - Regarding claim 20, perpendicularity of the blade to the table is maintained.
  - Regarding claim 22, the blade support structure projects upwardly from the table.
10. Claim 25 is rejected under 35 U.S.C. 102(e) as being anticipated by Kao(6,988,435).



Art Unit: 3724

- Kao discloses an apparatus for deflecting dust from a cutting element, the apparatus comprising a guard member capable of generally encasing an upper portion of a rotatable blade, the guard member shaped to deflect cutting waste to an exhaust fitting, the exhaust fitting having a funnel shape such that the fitting and the guard member overlap upon urging the rotatable blade into a cutting motion. See figures 1 and 3.

**Conclusion**

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

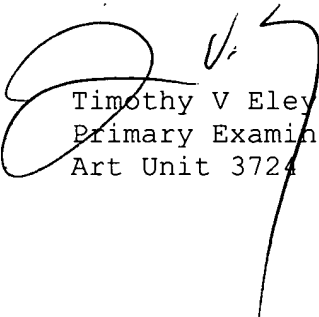
- The cited prior art discloses saws.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy V. Eley whose telephone number is 571-272-4506. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3724

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Timothy V Eley  
Primary Examiner  
Art Unit 3724

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